IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

Crl.MC.No. 3866 of 2006()

AGAINST THE ORDER DATED / / IN CMP.3562/2006 IN CC.302/1993 of JUDL. MAGISTRATE OF FIRST CLASS, ERATTUPETTA

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PETITIONER:

VASANTHI, W/O. PUZHKAN,
MALIAKKAL HOUSE, POONJAR, NEDUMBHAGAM VILLAGE,
MEENACHIL TALUK.

BY ADV. SRI.SHEEJO CHACKO
SRI.M.N.MANOJ
SRI.PRASANTH K.DIVAKARAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. RAVEENDRAN (DEAD), S/O. VELAYUDHAN,
PUTHUPARAMBIL HOUSE, PERUNILMKARA,
POONJAR.

ADDL. 3. SANTHAKUMARY, W/O. RAVEENDRAN,
PUTHUPARAMBIL HOUSE, POONJAR,
NOW RESIDING AT THOTTATHIL HOUSE,
PANCHIPARA, POONJAR.

IMPLEADED AS ADDITIONAL R3 AS PER ORDER IN CRL.M.C.NO.3866/06 DATED 23/3/07.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB.
SRI.SREEPRAKASH K.NAIR (ADDL. R3)

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3866 OF 2006

Dated this the 23rd day of March, 2007

ORDER

The petitioner is the complainant in a prosecution under Sec.138 of the Negotiable Instruments Act. The accused in the case was found guilty, convicted and sentenced. The same was challenged and the verdict of guilty and conviction were upheld by this Court in revision. The matter was sent back to the learned Magistrate for imposition of an appropriate sentence or to report composition, if any. At that stage, the accused expired. Though there is a conviction, it is not followed by any sentence imposed. The charge abated and the proceedings came to a grinding halt.

2. During the pendency of the proceedings, an amount of Rs.15,000/- had been deposited before the learned Magistrate by the accused. After the charge abated, the complainant – the petitioner herein applied for release of the

said amount. The learned Magistrate rightly took note of the fact that there is no sentence and in these circumstances, the amount deposited cannot legally be released to the complainant. The complainant has come to this Court with this Crl.M.C. to challenge the said order of the learned Magistrate.

3. After discussions at the Bar, the petitioner/complainant was directed to explain why the legal heirs of the deceased accused have not been arrayed as a party. It is at this stage that the wife of the deceased has come before this Court with Crl.M.A.No.1305/07 to get herself impleaded as a party. The said petition is allowed and the said petitioner is impleaded as additional respondent No.3.

4. The additional respondent No.3 submits that she has no objection in the amount being released to the complainant. I am of opinion that in these circumstances the want of objections on the part of the widow of the deceased can be taken due note of and the amount in deposit can be directed to be released to the complainant in the peculiar facts and circumstances of this case. I am satisfied that such a direction shall eminently serve the interests of justice.

5. In the result, this Crl.M.C. is allowed. The learned

Magistrate shall release the amount of Rs.15,000/- which is available in deposit (as deposited by the accused. In the case who has been found guilty and convicted and which verdict of guilty and conviction have already become final) to the complainant i.e., the petitioner herein.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge